IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11230 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAMAL METAL INDUSTRIES - Petitioner(s)

Versus

VASUDEV MAYASHANKAR JOSHI & 1 - Respondent(s)

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Appearance :

MR KM PATEL for Petitioner(s) : 1,
MR RD RAVAL for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/09/2005

ORAL JUDGMENT

1.In the present petition, the petitioner employer has challenged the legality of an Award dated 19.01.2004 passed by the Labour Court, Ahmedabad in Reference

(LCA)No. 927/1988. By the impugned Award, the Labour Court, Ahmedabad was pleased to direct reinstatement of the respondent Workmen with continuity and 25% backwages.

2. It is the case of the petitioner Employer that the respondent Workmen had committed serious misconduct, for which he was dismissed from service pursuant to an inquiry. Learned Advocate Shri K.M. Patel, appearing for the petitioner submitted that the Labour Court in its impugned Award has virtually upheld the charges against the respondent Workmen, but eventually, without proper justification, found that their dismissal is required to be set aside and directed not only reinstatement but also continuity and 25% backwages.

2.1 Learned advocate Shri Raval appearing for the respondent Workmen submitted that the Labour Court has not properly considered the elaborate arguments advanced on behalf of the Workmen. He however conceded that as the Award stands at present, the same cannot be sustained and the proceedings should be remanded to giving fair opportunity to both the sides to advance their cases before the Labour Court.

3.Having heard the learned Advocate appearing for the parties and considering the situation obtaining as noted hereinabove, it would be appropriate to remand the proceedings for fresh hearing by the Labour Court without expressing any opinion on the rival contentions. For the above purpose, the impugned Award of the is set aside. Reference proceedings being Reference (LCA)No. 927/1988 are remanded before the Labour Court for fresh disposal after hearing both the sides.

4.With this direction, the petition is partly allowed. Rule made absolute to the above extent. No orders as to costs.

(Akil Kureshi, J.)

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